

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

8:05CR74

v.

PHILLIP FIGURES,

MEMORANDUM AND ORDER

Defendant.

This matter is before the court on the defendant's motion for a sentence reduction, Filing No. [102](#). The defendant seeks a reduction based on recent amendments to the Guidelines pursuant to the Fair Sentencing Act.

On December 9, 2005, defendant was sentenced, pursuant to a binding plea agreement under Fed. R. Crim. P. 11(c)(1)(C), to a term of imprisonment of 65 months followed by a 5-year term of supervised release for conspiracy to possess with intent to distribute 5 grams or more of crack cocaine. Filing No. [73](#). Defendant's sentence was reduced to 60 months in 2008 as a result of application of retroactive Guidelines amendments regarding crack cocaine sentences. Filing No. [79](#). The record shows that the defendant completed his term of imprisonment on this charge and began serving his term of supervised release on August 2, 2011. See Filing No. [83](#).

Under 18 U.S.C. § 3582(c)(2), a court may reduce a term of imprisonment if a sentencing range is lowered by the Sentencing Commission if "such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. § 3582(c)(2). The Sentencing Guidelines policy statement provides that "[i]n no event may the reduced term of imprisonment be less than the term of imprisonment the

defendant has already served." U.S.S.G. § 1B1.10(b)(2)(C), p.s. Accordingly, the court finds the defendant's motion should be denied.

IT IS ORDERED that the defendant's motion for a sentence reduction (Filing No. [101](#)) is hereby denied.

DATED this 2nd day of August, 2012.

BY THE COURT:

s/ Joseph F. Bataillon
UNITED STATES DISTRICT JUDGE